

REMARKS

Subsequent to the filing of an Amendment on January 12, 2006 in response to the Office Action dated September 12, 2005, the Examiner has advised Applicant's representative in a telephone call on February 17, 2006 that the Amendment filed on January 12, 2006 did not obviate the rejection of claim 20 under 35 U.S.C. §112, second paragraph, for being indefinite in reciting a "non-biologically functional protein".

Applicant intended to amend claim 20 to replace the phrase "encodes a non-biologically functional protein", with the recitation "is a hybrid gene", but mistakenly amended claim 21 to introduce the recitation "is a hybrid gene". By way of the instant amendment, Applicant has reinstated the previous version of claim 21; and has replaced the phrase "encodes a non-biologically functional protein" in claim 20, with the recitation "is a hybrid gene". Support for instant claim 20 is found in the specification, e.g., at col. 7, lines 15-19. During a telephone interview conducted with the Examiner on December 12, 2005, the Examiner indicated that such recitation of claim 20 would be acceptable.

Applicant respectfully submits that all the rejections raised in the Office Action dated September 12, 2005 are now overcome in view of the instant amendment and the foregoing remarks, as well as the remarks made in the Amendment filed on January 12, 2006.

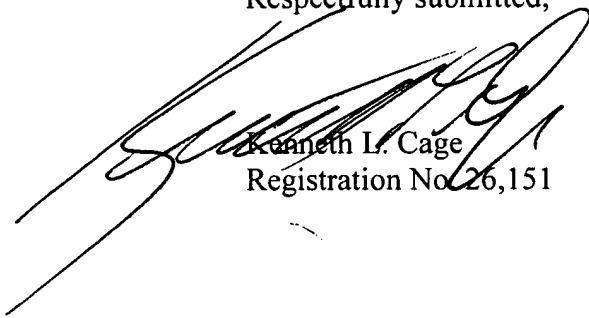
Applicant further respectfully submits that the instant amendment to the specification and the claims are all made relative to the patent, as required by the provisions of 37 C.F.R. §1.173(b). Specifically, all the claims in the original '834 patent are canceled; and all of claims 16-30 are new relative to the '834 patent. As illustrated in MPEP §1453, Section V, Examples (3) and (5), cancellation of claims of the original patent and addition of new claims relative to the patent, are presented by a statement directing the cancellation and addition. No

status indicators are required for the canceled and added claims. However, an added claim should be underlined throughout the claim.

Finally, Applicant respectfully submits herewith a newly executed reissue declaration, which states that all errors being corrected in the instant reissue application arose without deceptive intention on the part of Applicant.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Kenneth L. Cage', is written over the typed name and registration number.

Kenneth L. Cage
Registration No. 26,151

McDermott, Will & Emery
600 13th Street, N.W.
Washington, D.C. 20005-3096
Tel: (202) 756-8363
KLC/jam
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